

WEST VIRGINIA SECURITIES COMMISSION

STATEMENT OF POLICY

West Virginia Administrative Regulation Section 15.03

Rules, Forms, Orders and Hearings

Sections (a)(4) & (a)(5)

November 26, 2007

The West Virginia Securities Commission Staff ("the Staff") has recently expressed concern in regard to the format of the retention of documents filed with the Commission.

Section 15.03(a)(4) states: All forms and documents shall be printed, lithographed, mimeographed, typewritten, or prepared by a photocopying process which, in the opinion of the Commissioner, produces copies suitable for a permanent record. All forms and documents shall be clear, easily readable, and suitable for repeated photocopying.

Section 15.03(a)(5) states: All applications and other documents received and filed with the Commissioner shall become part of the permanent record and will not be returned to the applicant or correspondent.

These rules have been superseded by the federal "Electronic Signatures in Global and National Commerce Act" signed into law June 30, 2000, and effective March 1, 2001 as to any records required to be retained by federal or state agency.

Additionally, the National Conference of Commissioners on Uniform State Laws has promulgated a new set of model rules called the Uniform Electronic Transactions Act ("UETA"). UETA was designed to support electronic commerce by establishing a uniform set of rules to govern electronic records and signatures.

The state of West Virginia has adopted the provisions of the UETA Act and has promulgated West Virginia Code §39A-1-12 Retention of electronic records; originals, which states: (a) If a

law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which meets the following requirements:

- (1) Accurately reflects the information set forth in the record as it was first generated in final form as an electronic record or otherwise.
- (2) Remains accessible for later reference.

THEREFORE, it shall be the Commission policy effective this date that §39A-1-12 will be enforced uniformly, and the information on the documents submitted to the Commission may be kept in an electronic format which will be accessible for future reference or reproduction.

Glen B. Gainer, III
State Auditor
Commissioner of Securities

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